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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/055,759	01/23/2002	John Sidney Stewart	PU 020022	7319

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EXAMINER

SHANG, ANNAN Q

ART UNIT	PAPER NUMBER
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2424

MAIL DATE	DELIVERY MODE
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11/14/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/055,759	Applicant(s) STEWART, JOHN SIDNEY	
	Examiner ANNAN Q. SHANG	Art Unit 2424	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/17/08;3/7/08</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. In view of the Appellant' Brief filed on 08/11/08, with respect to claims 1-20, PROSECUTION IS HEREBY REOPENED. The finality of the last office action has been withdrawn and a new ground(s) or rejection is hereby being made as set forth below. Examiner is hereby reapplying a previously cited prior art, Arsenault in a 103(a) rejection. Arsenault discloses NVOD system which uses a content protection scheme which stores encrypted and non-encrypted portions (initial segment, first portion, previews) of the video program and controls the reproduction of the stored content (col.9, line 61-col.10, line 65, line 66-col.11, line 1+, col.13, line 10-65 and col.17, line 24-col.18, line 5), but silent as to using other well known content protection scheme, such as scrambling and storing scrambled and non-scrambled portions of the video program. However, one skilled in the art would have been motivated to use other well known content protection scheme, such as scrambling/unscrambling to control the reproduction of the stored content. Furthermore, a prima facie case of obviousness is made because all of the elements are well known and could be combined by known methods of protecting broadcast content and would result in a predicted result of controlling reproduction of stored scrambled broadcasted content, as discussed below in the office action. This office action is non-final.

To avoid abandonment of the application, appellant must exercise one of the following two options:

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(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/Chris Kelley/

Supervisory Patent Examiner, Art Unit 2424

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8, 10-18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Arsenault et al (6,701,528)**, previously cited by Examiner.

As to claim 1, note the **Arsenault** reference figures 2 and 4-8, discloses virtual VOD and NVOD using encrypted video segments and further discloses a method for

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providing multimedia presentations on demand in a near on demand environment, comprising:

A multimedia recorder (fig.2, IRD-200) configured for pre-recording a beginning segment of multimedia presentations which are broadcasted over at least two channels with a periodic interval being a difference of time between the start of the broadcast of the multimedia presentation over a first channel and a second different channel, the beginning segment having a time duration at least as long as the periodic interval (figs.4-8, col.9, lines 46-60 and col.11, line 7-col.12, line 7); and

A multimedia system controller (210) operatively communicating with the multimedia recorder and responsive to a user request for performance of a selected one of the multimedia presentation causing the IRD to:

Commencing playback of the beginning segment corresponding to the multimedia presentation, where the beginning segment is received unscrambled (col.9, lines 46-60); commencing recording of the multimedia presentation for which a broadcast has already begun, where the rest of the multimedia presentation, which is not the beginning segment of the multimedia presentation, is received scrambled (col.9, lines 14-45, col.10, line 7-col.11, line 56, col.13, lines 25-65 and col.17, line 30-col.18, line 5) and

Switching from the playback of the beginning segment to playback of the recording of the rest of the multimedia presentations when program content of the beginning segment corresponds with program content of the rest of the multimedia

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presentation contained in the recording (col.9, line 61-col.10, line 65, line 66-col.11, line 1+, col.13, line 10-65 and col.17, line 24-col.18, line 5).

Arsenault discloses NVD system which uses a content protection scheme which stores encrypted and non-encrypted portions (initial segment, first portion, previews) of the video program and controls the reproduction of the stored content, but silent as to using other well known content protection scheme, such as scrambling and storing scrambled and non-scrambled portions of the video program.

However, one skilled in the art would have been motivated to use other well known content protection scheme, such as scrambling/unscrambling to control the reproduction of the stored content. Furthermore, a prima facie case of obviousness is made because all of the elements are well known and could be combined by known methods of protecting broadcast content and would result in a predicted result of controlling reproduction of stored scrambled broadcasted content.

As to claim 2, Arsenault further discloses where the method comprises pausing the multimedia (MM) presentation by stopping the playback of at least one of the beginning segment and recording of the selected one of the MM presentations while continuing to record the selected one of the MM presentations (col.12, line 55-col.13, line 9).

As to claim 3, Arsenault further discloses at least one of rewinding and fast forwarding the playback of the recording of the rest of the MM presentations while continuing to record the rest of the MM presentations (col.9, lines 6-60, col.10, lines 22-65 and col.12, line 55-col.13, line 9)

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As to claim 4, Arsenault further discloses where the beginning segment and the selected one of the MM presentations are recorded on a common storage medium (col.6, line 55-col.7, line 9, col.9, lines 6-60, col.10, lines 22-65).

As to claim 5, Arsenault further discloses where the common storage medium is selected from a group consisting of a magnetic disk medium, an optical disk medium and an electronic storage medium (col.6, line 55-col.7, line 9, col.9, lines 6-60, col.10, lines 22-65).

As to claim 6, Arsenault further discloses where the method comprises alternately reading from the common storage medium for the playback of the pre-recorded beginning segment and recording of the selected one of the MM presentations on the common storage medium (col.6, line 55-col.7, line 9, col.9, lines 6-60, col.10, lines 22-65).

As to claim 7, Arsenault further discloses where the method comprises inhibiting playback of the recording of the selected one of the MM presentations after a presentation of the selected MM presentation is completed (col.2, line 53-col.3, line 12 and col.9, line 21-45).

As to claim 8, Arsenault further discloses automatically pre-recording beginning segments upon initial activation of a MM system (col.9, line 46-col.10, line 35 and line 56-col.11, line 56)

As to claim 10, Arsenault further discloses where the MM presentations are presented on one of the group consisting of a TV display, video display, a computer display, etc., (fig.2 and col.5, line 16-col.6, line 1+).

As to claim 11, the claimed “A system for providing multimedia presentations on demand in a near on demand environment...” is composed of the same structural elements that were discussed with respect to the rejection of claim 1.

As to claim 12, Arsenault further discloses a system comprising a user interface that receives user commands and communicates the user commands to the MM system controller (fig.2 and col.5, line 16-col.6, line 1+).

As to claim 13, Arsenault further discloses where the user interface comprises a menu of the MM presentations available to a user from which the user can select a MM presentation for performance (fig.2, col.5, line 16-col.6, line 1+ and col.9, line 46-col.10, line 35).

As to claim 14, Arsenault further discloses a system comprising a control responsive to a user input that when activated pauses the MM presentation by stopping the playback of at least one of the beginning segment and the recorded portion while continuing to record the selected one of the MM presentations (col.9, line 46-col.10, line 35 and col.12, line 55-col.13, line 9).

Claim 15 is met as previously discussed with respect to claim 3

Claim 16 is met as previously discussed with respect to claim 4.

Claim 17 is met as previously discussed with respect to claim 5.

Claim 18 is met as previously discussed with respect to claim 8.

Claim 20 is met as previously discussed with respect to claim 1.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 9 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Arsenault et al (6,701,528)** as applied to claims 1 and 11 above, and in view of **Sciammarella (6,281,940)**.

As to claims 9 and 19, the modification of Arsenault, fail to explicitly teach periodically updating beginning segments with new beginning segments corresponding to subsequent MM presentations.

However, note the **Sciammarella** reference figures 1 and 6-8, discloses display of previewed channels with rotation of multiple previewed channels and periodically updates the beginning segments or preview with new segments (fig.6, col.3, lines 13-27, col.4, lines 8-34, col.6, lines 30-45 and col.7, line 51-col.8, line 12).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Sciammarella into the system of Arsenault in order to continuously provide the receiving system or the user with changes or new previews as events unfolds.

Conclusion

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Annan Q. Shang** whose telephone number is **571-272-7355**. The examiner can normally be reached on **700am-400pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Christopher S. Kelley** can be reached on **571-272-7331**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the **Electronic Business Center (EBC) at 866-217-9197 (toll-free)**. If you would like assistance from a **USPTO Customer Service Representative or access** to the automated information system, **call 800-786-9199 (IN USA OR CANADA) or 571-272-1000**.

/Annan Q Shang/

Primary Examiner, Art Unit 2424

Annan Q. Shang